IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.452 OF 2006

1.Hemant D.Shah & others. ...Petitioners.

vs.

1.Chittaranjan D. Shah & others. ..Respondents.

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Mr.Pradeep Sancheti with Riyaz Chagla with Harish Pandya with H.K.Sudhakara i/b. M/s.Khaitan & Co. for Petitioenrs.

Mr.J.P.Sen i/b. Mr.Denzil D'Mello, for Respondent nos.1 to 4 and 6.

CORAM: D.K.DESHMUKH, J.

DATED: 6th DECEMBER,2006

P.C.:

1. By this petition, the petitioners seek interim order in relation to the premises i.e. 5th and 6th floor situated at Manish Corporation Centre, Worli, Mumbai. At Exhibit "C" to the petition, the petitioners have given names of the owners of this premises. From perusal of Exhibit "C" it is clear that so far as 5th floor is concerned, apart from the others, Veena Properties Pvt.Ltd. is one of the owners of the property as also Sachin Trust is one of the owners of the property. Admittedly, Veena Properties Pvt. Ltd. and Sachin Trust are not parties to the arbitration agreement. Similarly so far as 6th floor is concerned, Sachin Trust is one of the owners of the property as also Sachin trust is also not a party to the arbitration agreement. As per the law laid down by the Division Bench by its judgment in the Appeal no.658 of 2006, " Hemant D. Shah and others Vs. Chittaranjan D. Shah and others", dated 5.9.2006, interim order under Section 9(ii)(c) of the Arbitration Act can be made only in

relation to the property which is subject matter of the arbitration agreement and if admittedly one of the owners of the property is not a party to the arbitration agreement then that property cannot be said to be the subject matter of the arbitration agreement. In view of the law laid down by the Division Bench, no interim order can be made under Section 9 of the Act in relation to the property because those properties cannot be said to be the subject matter of the arbitration proceedings. The petition is therefore, disposed of.

2. The learned Counsel appearing for respondent nos. 1 to 4 and 6 states that without prejudice to their rights and contention, the respondents will maintain status quo in relation to the aforesaid premises upto 10.1.2007. The statement is accepted.

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